



# Risk Management Advisor

Risk Management Program

Idaho Department of Administration

Winter 2003

Volume 4, Number 2

*"Providing Effective Risk Management Services and Resources for State Agencies and Personnel"*

## AUTOMOBILE LIABILITY INSURANCE EMPLOYEES' PERSONAL AUTOMOBILE USE

Joan Compton, Risk Management Insurance Analyst

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Questions regarding the use of state employee's personal vehicles on state business are some of the most frequent calls received by the Risk Management Program. Some of the typical questions are: Whose insurance is primary when the employee is driving their private vehicle on state business – the state's or the employee's private vehicle insurance?

Who pays the medical bills incurred by the employee driver if injured in an automobile accident while driving on state business?



The answers to these questions are generally based on individual facts of each case, but typically, **liability insurance follows the vehicle being driven, not the person driving.** This means the employee's vehicle liability insurance coverage is primary and would respond first in the event of a covered claim involving property damage or personal injury to a third party caused by the negligent actions of the employee driver. The state employee must advise their private automobile insurance carrier prior to using their personal vehicle on state business particularly when they are driving their own private vehicle on a regular basis to perform their state job duties. This helps to avoid the possibility of the employee's private insurance carrier denying a claim that may otherwise be covered. The employee's private vehicle insurance carrier will also assess the proper premium charges to their insured driver for the exposures they are insuring.

If the employee's automobile liability insurance carrier pays a covered third party liability claim on behalf of the employee's negligent actions and, the judgment exceeds the maximum available liability limits carried on the employee's vehicle, the state of Idaho's automobile liability coverage may provide additional payment to satisfy the balance of the judgment, depending on the facts of the loss, but only up to the state's statutory liability limit of \$500,000 (per Idaho Code 6-924) and only for claims filed in the state of Idaho.

Additionally, the state of Idaho has purchased commercial excess liability insurance for covered losses that occur or are filed out-of-state, which may, under certain circumstances, not be limited to the state's statutory liability limit of \$500,000. The state employee driver must be within the course and scope of their state employment and furthering a state objective or the state's liability coverage may not provide this additional layer of coverage on behalf of the employee and/or the employee's agency.

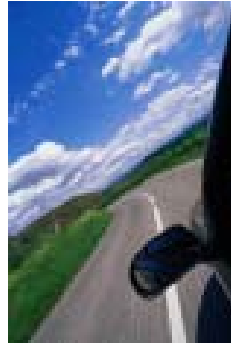
A state employee who is injured or is unable to work as a result of a job related automobile accident would typically have the sole remedy of Worker's Compensation benefits provided by the Idaho State Insurance Fund. A First Report of Injury should be completed and sent to the State Insurance Fund for their consideration of benefits. Any other authorized passengers who are not state employees and injured as a result of the employee's negligence should file a claim with the employee's primary automobile insurance carrier.

**Continued**

**The state is not responsible for damage to an employee's automobile, unless caused by the state's negligence.**

For agencies that have employees driving personal automobiles, here are some pointers to keep in mind:

- Do an annual check to be sure employees have a current drivers license.
- Do an annual check to be sure employees have automobile liability insurance in effect with their private automobile insurance carriers. If they do not have automobile insurance, the employee could be uninsured, thereby putting the state at greater risk.
- Be clear in the scope of permission what you are expecting in the business use of the automobile. Employees should be aware that once they deviate from their state sponsored business event, they no longer qualify for state benefits if they are involved in an accident.



- Advise the employee that any mileage allowance is intended to cover the cost of operating their vehicle while on state business, including the cost of insurance or other expenses relating to the use of their vehicle.
- The state is not responsible for damage to an employee's automobile, unless caused by the state's negligence. It is the responsibility of the employee to obtain auto physical damage insurance (collision / comprehensive coverage) for his/her own private vehicle, if they so desire. The state does not provide this type of coverage for employee's private automobiles.

Should you have any other questions, please do not hesitate to contact **Joan Compton** at the Risk Management Program at 332-1872.

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## **Higher Education Representatives Meet for Annual Roundtable**

**Kit Coffin**, Risk Management Program Manager

Risk Management hosted a Higher Education Roundtable in Boise on October 22. We were pleased to welcome representatives from Boise State University, Eastern Idaho Technical College, Idaho State University, University of Idaho; and the Legislative Services Office and the State Board of Education.

The roundtable is an annual event designed to address risk management issues in higher education. Our insurance broker, **Marsh USA**, assisted by providing

several speakers from its higher education practice.

Topics discussed included crisis management for terrorism, security, emergency and public health situations; environmental

compliance and its impact on insurance coverage; employment practices; and the state's insurance program. The final portion of the roundtable was devoted to an open forum for questions and comments.



# Liability Claim Processing by Risk Management

**Kit Coffin**, Risk Management Program Manager

In the Winter 2002 issue of the Risk Management Advisor, online at <http://www2.state.id.us/adm/insurance/risk/RM%20Advisor3-3.pdf> an article explained the agency's role in reporting incidents that could give rise to liability claims. You may wonder what occurs within the Risk Management Program when a liability incident report has been sent by an agency.

When Risk Management receives a liability incident report, the Technical Records Specialist sets up a processing sheet that outlines the basic information. If crucial information is missing, such as the date and location of the incident, she may contact the agency.



If no tort claim has been filed, the incident is entered on our computer system as a suspense file with a number assigned. No reserve is posted, no adjuster is assigned, and the situation is monitored. There is no liability claim until or unless a tort claim has been properly and timely filed. If a claim has not been filed in 180 days, the suspense file is closed. In some cases, such as serious accidents where a claim can be anticipated, an adjudicator may be assigned to gather preliminary information before a tort claim is filed.

A person or entity wishing to file a claim against the state or its employees must file a claim through the Office of the Secretary of State. Upon receipt from the claimant, the Secretary of State logs in each claim and sends it to Risk Management for handling.

When a claim arrives in Risk Management, the records specialist searches our computer system to see if it relates to a suspense file. If there is a match, the records specialist attaches it to the claim and forwards it to the Risk Management Operations Supervisor for review and assign-

ment. If there is no incident report, the records specialist sets up a new processing sheet and sends the claim to the supervisor. The

supervisor reviews the allegations, makes comments, and assigns an adjudicator. The records specialist changes or adds the claim to the computer, makes a physical file, and distributes as assigned.

The adjudicator reviews all the information provided by the claimant and by the agency, and evaluates whether coverage is available under our self-insured program.

Additional information, statements, pictures, documents, etc. may be requested from the agency. On occasion, Risk Management engages independent adjusters to conduct some field investigation. The adjudicator considers the allegations, the information gathered, and the provisions of the applicable statutes to reach a decision on legal liability.

The individual circumstances of each claim will determine its disposition. The claim may be paid, negotiated, or denied. If a claim is denied, a claimant may file suit if he does not accept the decision.

**A person or entity wishing to file a claim against the state or its employees must file a claim through the Office of the Secretary of State.**

For Questions About Any of These Articles, Contact the Following Authors and/or Managers:

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*"Risk Management Advisor" is published periodically in Boise, ID by the State of Idaho, Risk Management Program Staff. Every effort is made to ensure the accuracy of the information published. However, the information provided is intended as an introduction and overview of particular issues and is not intended to be used or relied upon in place of complete research. If you have any comments or suggestions, please contact the Editor, Ellen Cassens, at 208/332-1869 or e-mail at [ecassens@adm.state.id.us](mailto:ecassens@adm.state.id.us).*

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## Reorganization of Risk Management

**Rick Thompson**, Division Administrator, Division of Internal Management Systems of the Department of Administration, announced that effective November 19, 2003, the Office of Insurance Management was reorganized into two programs. Both programs will continue to report to Mr. Thompson.

The health and group insurance functions will be part of the Employee Benefits Program. Placement and management of property and casualty insurance, administration of self-insured coverages, and claims adjudication will be part of the **Risk Management Program**.

### Risk Management Program Personnel

Standing, from left: **Kit Coffin**, Risk Management Program Manager and **Joan Compton** Insurance Analyst.

Seated, from left: **Roger Cates** Claim Technician; **Ellen Cassens** Technical Records Specialist; **Carol Pettibon** and **Ray Heidt**, Claims Adjudicators.



## Be Prepared for Holiday Safety

The holiday season is officially underway and many offices are putting up decorations. It is important that care be given to where and



how the decorations are placed. Never place them near a source of heat. Cords, plugs, and lights should be examined carefully to see that they are safe to use. Candles should not be used in the office. Exits and walkways should be kept clear of obstructions.

The same basic principles should be used at home. Christmas trees and candles have the greatest potential for fire. Manufacturer's recommendations should be followed on artificial trees

and indoor and outdoor lights. Candles should be carefully placed and monitored. This is an excellent time to check the batteries in your smoke alarms, and to review your fire evacuation plan with your family.

The National Fire Protection Association has a list of tips that can help make the holiday season safer: <http://www.nfpa.org/Research/NFPAFactSheets/Holiday/Holiday.asp>

